98TH CONGRESS
1st Session

SENATE

EXECUTIVE REPT.
No. 98–12

NORTHWEST ATLANTIC FISHERIES CONVENTION

JULY 11, 1983.—Ordered to be printed

Mr. PERCY, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany EX. T, 96–1]

The Committee on Foreign Relations, to which was referred the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (the NAFO Convention), signed in Ottawa on October 24, 1978, by nine parties, not including the United States, and subsequently entered into force on January 1, 1979, having considered the same, reports favorably thereon without amendment and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

The primary purpose of this convention is to create a successor organization to the International Commission for the Northwest Atlantic Fisheries (ICNAF) which was established in 1949. Following the enactment of the Fishery Conservation and Management Act (P.L. 94–265), the United States withdrew from the International Commission because of the inconsistency between the Convention and the exclusive management authority over fisheries provided for in the Act. While the legislative history of the Act clearly indicates that it was the sense of Congress that the United States should withdraw from the International Commission, there is nothing in the Act or its legislative history which evidenced any Congressional reluctance to participate in multilateral efforts to conserve and manage fisheries, as long as the international regime is not inconsistent with the Act.

To the contrary, Section 202(b) of the Act specifically calls upon the Secretary of State to initiate the renegotiation of any treaty which pertains to fishing within the fishery conservation zone, or to anadromous species of U.S. origin or continental shelf resources and which is in any manner inconsistent with the purposes, policy or provisions of the Act, to conform such treaty to such purposes, policy and provisions. Having not succeeded in such renegotiatitons, the United States withdrew from ICNAF on December 31, 1976.

S38412

The purpose of this convention is to create a successor organization to ICNAF. Under this convention, the United States will receive and provide scientific data, participate in the planning and coordination of research activities, and have available a multilateral scientific council to review scientific studies pertaining to fish stocks in the Convention Area. United States adherence to the Convention will facilitate continuity of the data base established and accumulated over a period of 27 years under the ICNAF Convention. In addition, the United States will be able, if desirable, to request and receive scientific advice related to fisheries subject to its exclusive management jurisdiction. Finally, the United States will have an opportunity for membership in the Fisheries Commission, the body responsible for conservation and management of fisheries in the Regulatory Area, defined as that part of the convention area beyond the fishery conservation zones of the contracting parties.

The Committee is unaware of any opposition to this convention.

Major Provisions

The following excerpt from the Secretary of State's letter of April 19, 1979 submitting this Convention to the President summarizes its major provisions:

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, April 19, 1979.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to accession, the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (the NAFO Convention).

* * * * * * *

The Convention has twenty-five articles and three annexes.

Article I defines the area of the Convention's applicability ("the Convention Area") as the waters of the Northwest Atlantic Ocean north of 35°00′ north latitude and west of a line extending due north from 35°00′ north latitude, and 42°00′ west longitude to 59°00′ north latitude, thence due west to 44°00′ west longitude, and thence due north to the coast of Greenland and the waters of the Gulf of St. Lawrence, Davis Strait and Baffin Bay south of 78°10′ north latitude. It also defines the Regulatory Area of the Convention as the part of the Convention Area lying beyond areas in which coastal states exercise fisheries jurisdiction. Article I contains in addition a definition of coastal states and a non-prejudice clause. Finally, it provides that the Convention applies to all fishery resources of the Convention Area with the exception of salmon, tunas and marlins, cetacean stocks managed by the International Whaling Commission or any successor organization, and sedentary species of the continental shelf. Other than salmon, which are excluded, anadromous species of United States origin do not occur in the Regulatory Area.

Article II provides for the establishment and maintenance of the Northwest Atlantic Fisheries Organization (NAFO) and defines NAFO's object as contribution through consultation and cooperation to the optimum utilization, rational management and conservation of the fishery resources of the Convention Area. In addition, Article II establishes four subsidiary organs of NAFO: the General Council, the Scientific Council, the Fisheries Commission and the Secretariat. Finally, it makes provision for the legal capacity, privileges and immunities and headquarters of NAFO.

Article III sets forth the functions of the General Council. The General Council is authorized to coordinate the internal and external affairs of the organization, to review and determine the membership of the Fisheries Commission (as provided in Article XIII), and to carry out other functions entrusted to it under the Convention.

Article IV specifies in part that every Contracting Party shall be a member of the General Council.

The remainder of Article IV, as well as Article V, provide the procedural framework for the General Council.

Article VI sets forth the functions of the Scientific Council. These include providing a forum for consultation and cooperation among the parties in the study and exchange of scientific information on the fisheries of the Convention Area, and the promotion of scientific research by the Contracting Parties relating to such fisheries. In addition, Article VI obligates the Contracting Parties to furnish any available statistical and scientific information to the Scientific Council on request of the General Council. By adhering to the Convention, the United States will be enabled to participate in the Scientific Council, and as a result to receive scientific data, participate in the planning and coordination of research activities, and have available a multilateral scientific council to review scientific studies and hypotheses pertaining to fish stocks.

Article VII permits, but does not require, a coastal state to submit to the Scientific Council questions pertaining to the scientific basis for the management and conservation of fishery resources under the jurisdiction of that coastal state. The United States could obtain scientific advice on fisheries within the United States fishery conservation zone under this Article.

Article VIII requires the Scientific Council to report on any question the Fisheries Commission refers to it concerning the scientific basis for the management and conservation of fishery resources within the Regulatory Area.

Article IX provides in part that every Contracting Party shall be a member of the Scientific Council.

The remainder of Article IX, as well as Article X, provide the procedural framework for the Scientific Council.

Article XI sets forth the functions of the Fisheries Commission. The Fisheries Commission is responsible for management and conservation of fishery resources of the Regulatory Area. The Commission may adopt proposals for joint action by the Contracting Parties designed to achieve optimum utilization of the fishery resources of the Regulatory Area. Because proposals of the Fisheries Commission apply only to the Regulatory Area, Article XI does not conflict with unilateral United States conservation and management in the United States fishery conservation zone. In adopting such proposals, the Commission must seek to ensure consistency between (a) any proposal applying to a stock or group of stocks occurring both within the Regulatory Area and the fisheries jurisdiction of a coastal state, or having an effect through species inter-relationships on a stock or group of stocks occurring in whole or part within the fisheries jurisdiction of a coastal state, and (b) any measures taken by the coastal state for the management and conservation of that stock or group of stocks with respect to fishing activities conducted within the area under its fisheries jurisdiction. The appropriate coastal state and the Commission are obligated to promote the coordination of conservation and management measures relating to such stocks. This provision will have no effect on United States conservation and management efforts within the United States fishery conservation zone as there are no such stocks within the United States fishery conservation zone.

Proposals adopted by the Fisheries Commission are required to take into account traditional fishery interests of Commission members. Proposals allocating catches from the Grand Banks and Flemish Cap are to give special consideration to the Contracting Party which has coastal communities primarily dependent on fishing for stocks related to these banks and which has undertaken extensive efforts to ensure the conservation of such stocks through international action.

Article XI also provides that the Commission may adopt proposals for international measures of control and enforcement within the Regulatory Area. Because the Regulatory Area does not include areas in which coastal states exercise fisheries jurisdiction, this provision will have no effect on enforcement in the United States fishery conservation zone. Finally, Article XI provides for transmission by the Executive Secretary of each proposal adopted by the Commission to all Contracting Parties, and for the entry into force of such proposals on the date determined by the Commission, subject to the objection procedure of Article XII.

Article XII provides that a Contracting Party may prevent a proposal adopted by the Fisheries Commission from entering into force with respect to it by presenting an objection to the Executive Secretary within a specified time period. A proposal will not enter into force with respect to any Contracting Party if a majority of the Commission members object to it within the specified period. A Contracting Party may withdraw an objection at any time. A Contracting Party may also file a notice of intent not to be bound by a measure that is in force at any time more than one year from the date on which the measure entered into force; the Contracting Party will cease to be bound by the measure one year from the date the Executive Secretary receives the notice. After the notice becomes effective, any other Contracting Party may file a notice of intent not to be bound by the measure and cease to be bound on receipt of the notice of objection by the Executive Secretary. The Executive Secretary must immediately notify each Contracting Party of the receipt of each objection or withdrawal of objection, the date on which any proposal becomes a binding measure, and of receipt of each notice of intent not to be bound.

Article XIII specifies in part that the General Council shall review and determine the membership of the Fisheries Commission at its annual meeting, and that the Fisheries Commission shall consist of each Contracting Party which participates in the fisheries of the Regulatory Area or which has provided evidence satisfactory to the General Council that it expects to participate in the fisheries of the Regulatory Area during the year of that annual meeting or during the following calendar year. Current members of the Fisheries Commission are Canada, Cuba, the European Community, the German Democratic Republic, Norway, and the Soviet Union. Because the United States does not currently participate or expect to participate in the fisheries of the Regulatory Area, it will not be a member of the Fisheries Commission. The United States would become a member of the Commission only if and when it expected to participate in the fisheries of the Regulatory Area and satisfied the General Council on this point. Should the United States develop a fishery in the Regu-

latory Area, the United States would then have the opportunity, through its membership in the Commission, to participate in the development of conservation and management measures for that fishery.

The remainder of Article XIII, as well as Article XIV, provide the procedural framework for the Fisheries Commission.

Article XV provides for the creation and structure of the Secretariat and specifies its relationship to the General Council.

Article XVI contains the financial provisions of the Convention. Each Contracting Party is required to bear the expenses of its delegation to meetings held pursuant to the Convention. The expenses of the Organization are to be met through contributions from the Contracting Parties according to a formula specified in the Article.

Article XVII obligates the Contracting Parties to take the actions necessary to make effective the provisions of the Convention and to implement any measures which enter into force under Article XI or Article XXIII.

Article XVIII obligates the Contracting Parties to maintain and implement within the Regulatory Area a scheme of joint international enforcement as applicable pursuant to Article XXIII or as modified by measures which enter into force pursuant to Article XI.

Article XIX calls on the Contracting Parties to invite the attention of non-parties to any matters relating to fishing activities of nationals or vessels of that State in the Regulatory Area which adversely affect the attainment of the objectives of the Convention, and to confer when appropriate on taking steps to obviate such adverse effects.

Article XX divides the Convention Area into scientific and statistical subareas, divisions and subdivisions, as described in Annex III, and makes Annex III an integral part of the Convention. It provides for the amendment of Annex III with respect to scientific subareas, divisions and subdivisions, upon the request of the Scientific Committee, by a vote of two-thirds of all Contracting Parties in the General Council. In addition, it provides for the amendment of Annex III with respect to regulatory divisions and subdivisions, upon the request of the Fisheries Commission and after consultation with the Scientific Council, by a two-thirds vote of all Contracting Parties in the General Council.

Article XXI provides that any Contracting Party may propose amendments to the Convention to be considered and acted upon by the General Council at an annual or a special meeting. Any proposed amendment must be sent to the Executive Secretary at least ninety days before the meeting; the Executive Secretary is obligated to transmit the proposal immediately to all Contracting Parties. The adoption of a proposed amendment to the Convention requires a three-fourths majority of the votes of all Contracting Parties. An amendment takes effect for all Contracting Parties one hundred and twenty days following the date the Depositary notifies the Contracting Parties that three-fourths of the Contracting Parties have deposited written notification that they have approved the amendment. However, the amendment will not enter into force if any Contracting Party notifies the Depositary that it objects to the amendment within ninety days of the date the Depositary transmits such notification. Any Contracting Party which objects may later withdraw its objection, and, if all

objections to an amendment are withdrawn, the amendment will enter into force for all Contracting Parties one hundred and twenty days following the date the Depositary transmits notification to all the Contracting Parties that it has received the last withdrawal.

Article XXII provides that the Convention was open for signature at Ottawa until December 31, 1978, by the Parties represented at the Diplomatic Conference on the Future of Multilateral Cooperation in the Northwest Atlantic Fisheries held at Ottawa from October 11 through October 21, 1977, and that it is thereafter open for accession by the same Parties. Article XXII further specifies that the Convention is subject to ratification, acceptance or approval by the Signatories and that the instruments of ratification, acceptance or approval are to be deposited with the Government of Canada, the Depositary. In addition, Article XXII provides that the Convention shall enter into force on the first day of January following the deposit of instruments of ratification, acceptance or approval by not less than six Signatories, at least one of which exercises fisheries jurisdiction in waters forming part of the Convention Area. In accordance with this provision, the Convention entered into force on January 1, 1979. Finally, Article XXII requires the Depositary to convene the initial meeting of the Organization not more than six months after the Convention enters into force.

Article XXIII provides that, upon entry into force of the Convention, any proposal that has been transmitted or is effective under Article VIII of the ICNAF Convention becomes immediately binding upon the Contracting Parties with respect to the Regulatory Area if it was already in force under the ICNAF Convention, or will become a binding measure at the same time as it becomes effective under the ICNAF Convention. Each measure will, subject to the Article XII provision for delayed objections, remain in force until it is replaced by a measure which enters into force under Article XI of the Convention. No replacement is to take effect before the Convention has been in force for one year.

Article XXIV provides that any Contracting Party may withdraw from the Convention on December 31 of any year by giving notice on or before the preceding June 30 to the Depositary, who is required to communicate copies of such notice to the other Contracting Parties. By giving notice to the Depositary within one month of receiving a copy of such notice of withdrawal, any other Contracting Party may then also withdraw effective the same December 31.

Article XXV provides that the original of the Convention shall be deposited with the Depositary. The Depositary is obligated to communicate copies of the Convention to all the Signatories and to all the Contracting Parties, as well as to register the Convention with the Secretariat of the United Nations.

Annex I sets forth the lists of species to be used in determining nominal catches for the purpose of calculating the annual budget pursuant to Article XVI.

Annex II specifies the financial arrangements to cover the period of transition between the ICNAF Convention and the NAFO Convention. The Appendix to Annex II specifies the contributions of each State which is expected to become a party for 1979. If the United States accedes to the Convention before December 31, 1979, its contri-

bution will be $29,947 for 1979. The necessary amount has already been budgeted and appropriated.

Annex III sets out the scientific and statistical subareas, divisions and subdivisions.

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Respectfully submitted.

CYRUS VANCE.

On June 7, 1983, the Committee held a public hearing on the Convention. Ted Kronmiller, Deputy Assistant Secretary for Oceans and Fisheries Affairs, presented the Administration's position in favor of the Convention. (The hearing is reprinted in the Committee's report on the Eastern Pacific Ocean Tuna Fishing Agreement, Treaty Doc. 98–3.) On June 28, 1983, the Committee by voice vote ordered the Convention to be reported favorably to the Senate for its advice and consent to ratification.

ENTRY INTO FORCE

Article XXII provides that the Convention will enter into force on the first day of January following the deposit of instruments of ratification, acceptance or approval by not less than six signatory nations, at least one of which exercises fisheries jurisdiction in the waters forming part of the Convention Area.

TEXT OF RESOLUTION OF RATIFICATION

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on Future Multilateral Cooperaion in the Northwest Atlantic Fisheries (the NAFO Convention), signed in Ottawa on October 24, 1978, by nine parties, not including the United States, and subsequently entered into force on January 1, 1979.

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98TH CONGRESS
1st Session

SENATE

EXEC. RPT.
No. 98-13

EASTERN PACIFIC OCEAN TUNA FISHING AGREEMENT

JULY 11, 1983.—Ordered to be printed

Mr. PERCY, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany Treaty Doc. 98-3]

The Committee on Foreign Relations to which was referred the Eastern Pacific Ocean Tuna Fishing Agreement, signed by the United States on March 15, 1983, having considered the same, reports favorably thereon without amendment and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

The primary purpose of this agreement is to provide an international licensing arrangement for tuna fishing in a broad area of the eastern Pacific Ocean. The agreement also provides for conservation measures under specified circumstances.

BACKGROUND

The United States has been involved in fishery disputes with several Latin American countries because of conflicting laws regarding the jurisdiction over highly migratory tuna and has prohibited imports of tuna from several countries in retaliation for the seizures of U.S. tuna boats. These countries claim jurisdiction over all fish, including tuna, within 200 nautical miles of their coasts. The United States does not recognize or claim jurisdiction over tuna beyond 12 nautical miles. United States policy, pursuant to the Fishery Conservation and Management Act, has been to negotiate international agreements to ensure the effective conservation and management of tuna and to secure access for U.S. fishermen to the stocks wherever they migrate beyond a narrow belt of coastal waters.

In accordance with that Act, the United States, Costa Rica and Panama signed the Eastern Pacific Ocean Tuna Fishing Agreement

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on March 15, 1983. The multilateral accord will not enter into force until five coastal nations have signed it. It creates an international entity which will issue regional licenses for fishing tuna in a broad area of the eastern Pacific Ocean, with licensing fees to be distributed among the coastal states in proportion to the amount of tuna taken within 200 miles of each contracting nation. The negotiation of such regional arrangements has long been a goal of U.S. fisheries policy. The State Department believes that highly migratory tuna can best be managed through cooperative international regional efforts.

It is the expectation of the State Department that several other countries of Central and South America, as well as other nations with vessels fishing tuna in the area, will be interested in joining the agreement. It is the hope of the Department that this new agreement should end the cycle of seizures of U.S.-flag tuna boats resulting from conflicting jurisdictional claims and the subsequent imposition of retaliatory embargoes required by United States law.

The Committee is unaware of any opposition to this agreement which is strongly supported by the West Coast tuna interests. The following letter sets forth the position of the American Tunaboat Association on this agreement:

AMERICAN TUNABOAT ASSOCIATION,
San Diego, Calif., June 6, 1983.

Hon. CHARLES PERCY,
Committee on Foreign Relations,
Dirksen Building, Washington, D.C.

DEAR MR. CHAIRMAN: The American Tunaboat Association (ATA) is a non-profit fishery cooperative which represents nearly all U.S.-flag long distance tuna fishing vessels.

I was personally involved in the negotiations which led to the Eastern Pacific Ocean Tuna Fishing Agreement (Tuna Treaty) now pending before your Committee for Senate ratification. ATA wholeheartedly supports this treaty and urges rapid Senate advice and consent to its terms. Early unqualified approval will assist further negotiation efforts with other nations in the region that the Department of State has scheduled for later this month.

The Tuna Treaty is the culmination of many years of discussions with various Central and South American countries for the purpose of resolving strong differences of opinion over the management of the high migratory tuna in the region. Seizures of U.S. vessels and embargoes against the seizing countries occurred in the first years after the U.S. declared a 200-mile fishery conservation zone. Finally, however, we now have been able to resolve our differences with at least two countries. Costa Rica and Panama, and we hope to persuade others of the value of the agreement just as soon as we can.

This agreement offers the first real hope to end the cycle of seizures that have affected the U.S. tuna fleet off and on for 30 years in the eastern tropical Pacific. It is a fair agreement and should serve as a model for other areas of the world where tuna is fished.

We urge your strong support for ratification of the treaty.

Sincerely,

AUGUST FELANDO, *President.*

MAJOR PROVISIONS

The following letter of the Secretary of State submitting this agreement to the President summarizes its various provisions:

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, April 8, 1983.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with the view to its transmission to the Senate for advice and consent to ratification the Eastern Pacific Ocean Tuna Fishing Agreement. This Agreement was signed on March 15, 1983 by the United States, Costa Rica and Panama. The Agreement, which will go into effect when signed and ratified by five coastal states, is a regional convention which makes available international tuna licenses. License fees will pay for administration of the Agreement, and thus, there will be no direct cost to the U.S. government. Provision also is made for conservation when circumstances permit.

The negotiation of the new Agreement is an important development in our fisheries policy. Most nations along the coast of the eastern Pacific Ocean claim 200 nautical mile jurisdictions for tuna. The United States, however, does not claim or recognize coastal state jurisdiction over highly migratory tuna beyond 12 nautical miles of the coast, but believes that tuna resources are best managed internationally. The regional Agreement is a significant step forward in support of such international management. Equally important, for those nations party to it, the new Agreement should end the cycle of seizures of U.S.-flag tunaboats and the subsequent imposition of retaliatory U.S. embargoes mandated by the Magnuson Fishery Management and Conservation Act. The U.S. tuna industry strongly supports the Agreement.

The area covered by the Agreement coincides with the yellowfin conservation area (CYRA) of the Inter-American Tropical Tuna Commission (IATTC), except those areas within 200 nautical miles of states not parties to the Agreement and those areas within 12 nautical miles of the Contracting Parties. The CYRA consists of an ocean area of over 2 million square miles extending from California to Chile and over 1,000 miles off the coast. In order to fish in this area, the Contracting Parties have agreed to require their tuna vessels to have an international license. The fee for the international license is set, for the first five coastal countries joining the Agreement, at $60 per net registered ton of the vessel to be licensed, but may be increased in increments up to a maximum of $100 per ton as more states become party to the Agreement. The fees collected are to be distributed among the Contracting Parties in proportion to the amount of tuna taken within 200 nautical miles of their coasts each year. Any coastal state of the eastern Pacific Ocean or any IATTC member may become party to the Agreement and a

voting member of the Council. Other States may join on unanimous consent of the Council members.

The Agreement does not have a specific termination date, although any party may withdraw from it after two years and the provisions are inoperative if there are fewer than 5 coastal state parties. However, the Agreement is intended to be interim, pending the conclusion of more comprehensive arrangements. The IATTC will continue to fulfill its responsibilities to study and manage the tuna and porpoise stocks of the eastern Pacific Ocean. The Agreement will not duplicate the work of the IATTC.

United States tuna industry interests have been closely involved in the negotiation of this Agreement and, as noted, are in favor of its ratification. Interested members of Congress and appropriate Congressional committees have been briefed and are supportive of the Agreement. The Departments of State and Commerce also recommend ratification.

Analysis of treaty text

Article I establishes an interim regime for the licensing of tuna vessels in the eastern Pacific Ocean.

Article II(B) defines the area to be covered by the Agreement, which is the same as the conservaiton area (CYRA) of the Inter-American Tropical Tuna Commission (IATTC), with the exception of those areas within 200 nautical miles of states not parties to the Agreement and those areas within 12 nautical miles of the Contracting Parties.

Article III(A) establishes the Council, which will implement the Agreement. Each Contracting Party which is a coastal state or a member of the IATTC shall have one representative on the Council and one vote. Council decisions are by unanimous agreement with a minimum of five members present.

Article III(B) describes the responsibilities and operation of the Council, and the appointment of a Director.

Articles III (C) and (D) deal with conservation of tuna resources. The members of the Council may, based on appropriate scientific data, consult among themselves and with other states not Party to the Agreement but which fish tuna on a significant scale in the Eastern Pacific Ocean. Whenever the Contracting Parties include all such fishing states, the Council may make conservation recommendations. Such recommendations shall be consistent with the obligations of any Contracting Party pursuant to any relevant multilateral conservation agreement and shall be based on reports of the IATTC.

Article IV establishes a system of international licenses for fishing tuna in the Eastern Pacific Ocean, to be administered by the Council. The Director of the Council or an appointed national authority will issue licenses to the flag vessels of the Contracting Parties.

Article VI deals with enforcement of the Agreement. It requires the Contracting Parties to avoid prohibitions of tuna imports from other Contracting Parties taking enforcement actions consistent with the Agreement. Article VI also requires each Contracting Party to adopt, as necessary, provisions in its national law for enforcement of the Agreement.

Articles VII and VIII specify membership eligibility. Coastal states and members of the IATTC may be members, or any other state with the approval of the Council.

Article IX states that the Agreement will enter into force 30 days after the ratification or adherence of the fifth coastal state.

Article X appoints Costa Rica as depository government for the Agreement.

Article XI states that, after entering into force, the provisions of the Agreement will be suspended for such time as there are fewer than five Contracting Parties.

Article XII describes procedures for withdrawal from the Agreement.

Article XIII reserves the juridical positions of the Contracting Parties. The United States does not recognize or claim jurisdiction over highly migratory tuna beyond 12 nautical miles. Most Latin American nations claim 200 nautical miles.

Article XIV commits the Contracting Parties to continue their efforts to establish a new regional regime for the management and conservation of tuna in the eastern Pacific Ocean.

Article XV calls on the Contracting Parties to cooperate in their tuna fisheries relations until the Agreement enters into force.

Article XVI states that the Agreement is open for signature until the ratification or adherence by the fifth coastal state.

Paragraphs A–D of the Protocol deal with the procurement of international licenses under the Agreement. The fee for the vessels of all members will be $60 per net registered ton when the Agreement enters into force with five coastal states, will increase by an amount determined by the Council with the membership of the sixth coastal state, and will increase in increments of at least $10 to an overall maximum of $100 with the adherence or ratification of other coastal states. The fee shall be decreased in increments, to a minimum of $60 per net registered ton, with the withdrawal of coastal states. Licenses will not be required of vessels of less than 200 net registered tons which fish exclusively within 200 nautical miles of their own coast. Adjustments of the fees shall take into consideration, inter alia, the amount of tuna taken within 200 nautical miles of the coast of states joining or withdrawing from the Agreement.

Paragraph F of the Protocol directs the Council to disburse the collected fees, after a deduction of no more than ten percent to cover administrative costs, to the coastal state in proportion to the amount of tuna taken within 200 nautical miles of their cost during the year in which the licenses are issued.

Paragraph G of the Protocol concerns the collection of statistical data by the Director and its transmission to the Council. Licensed vessels shall report catches by size and location. Such reports will be confidential and the Director will transmit the data to the Council only in aggregate form for purpose of determining fee disbursements.

Respectfully submitted.

GEORGE P. SCHULTZ.

On June 7, 1983, the Committee held a public hearing on this agreement. Ted Kronmiller, Deputy Assistant Secretary of State

for Oceans and Fisheries Affairs, testified in favor of the agreement. The text of that hearing is reprinted in the appendix to this report.

On June 28, 1983, the Committee met in open session and agreed unanimously by voice vote that this agreement be reported favorably to the Senate for its advice and consent to ratification.

Entry Into Force

Article IX provides that this agreement shall enter into force 30 days after the ratification or adherence of five coastal states.

Text of Resolution of Ratification

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Eastern Pacific Ocean Tuna Fishing Agreement, signed by the United States on March 15, 1983.

APPENDIX

TREATY DOC. 98-3—EASTERN PACIFIC OCEAN TUNA FISHING AGREEMENT

EX. T, 96-1—CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

(THE NAFO CONVENTION)

TUESDAY, JUNE 7, 1983

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The Committee met pursuant to notice, at 11:21 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Charles A. Percy (chairman of the committee) presiding.

Present: Senators Percy and Helms.

The CHAIRMAN. The Chair apologozes for the latest time we have ever started a hearing in the Foreign Relations Committee in the last two-and-a-half years, but we had urgent other committee business that had to take precedence.

Today the committee will receive testimony from Ted Kronmiller, Deputy Assistant Secretary of State for Oceans and Fishery Affairs on two international fishery agreements—the Eastern Pacific Ocean Tuna Fishing Agreement and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries.

Both agreements are designed to promote international cooperation in the management and coinservation of fishery resources. The Northwest Atlantic Fisheries Convention would continue the scientific cooperation on the research data base by the East Coast Fishery Resources, which has existed for over 27 years under the old International Commission for the Northwest Atlantic Fisheries Convention.

The Tuna Agreement will go a long way toward resolving the fishery disputes with a number of our Latin American neighbors. It should significantly reduce or eliminate the annual seizure of U.S. tunaboats by these countries and the resulting U.S. embargoes on their fishery products.

Mr. Kronmiller, if you would joint us here with any of your colleagues, we are delighted to have you.

STATEMENT OF HON. THEODORE G. KRONMILLER, DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS AND FISHERIES AFFAIRS

Mr. KRONMILLER. Thank you, Mr. Chairman.

I appreciate the opportunity to appear before the committee to request advice and consent to ratification of the Eastern Pacific Ocean Tuna Fishing Agreement and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, to which you make reference.

The Tuna Agreement was signed on March 15, 1983, by the United States, Costa Rica, and Panama and will enter into force signed and ratified by five coastal states of the eastern Pacific region. Upon entry into force, the council established by the Agreement will make available international licenses to fish tuna in the Agreement area.

Licensee fees will be disbursed among the coastal state parties to the Agreement in proportion to the catches of tuna in their respective 200-mile zones. Fees will also be used to pay for administration of the Agreement. Provision is made for conservation when all significant tuna fishing nations become parties.

Conservation recommendations will be based on studies provided by the Inter-American Tropical Tuna Commission [IATTC], which will be replaced, along with the Agreement, when a comprehensive convention is eventually concluded.

Most nations along the coast of the eastern Pacific Ocean claim soverign rights over tuna in their 200-mile zone. However, in accordance with the Magnuson Fishery Conservation and Management Act [MFCMA] and the Presidential Proclamation of March 10, 1983, establishing the United States exclusive economic zone, the United States does not claim or recognize coastal state sovereign rights or jurisdiction over migratory tuna beyond 12 miles from the coasts. The United States maintains that this resource can be managed effectively only by international agreement and not by the unilateral actions of coastal states.

Mr. Chairman, I have a brief history of the talks leading to this agreement and I would like to submit that with my formal statement.

The CHAIRMAN. It will be incorporated in the record following your prepared statement.

Mr. KRONMILLER. Thank you, Mr. Chairman.

The Tuna Agreement does not compromise the formal juridical positions of the parties. It represents an equitable balance among the interests of coastal states and distant-water fishing nations. Thus, the Agreement can serve as a model of for regional tuna licensing agreements in other areas of the world.

For those nations parties to it, the new Agreement will end the cycle of seizures of U.S.-flag tuna boats and consequent impositions of retaliatory U.S. embargoes mandated by the Magnuson Fishery Conservation and Management Act. Tuna fishing and marketing among the parties will enjoy new stability. Representatives of the United States tuna industry have been closely involved in the negotiation of this Agreement and favor its ratification.

For these reasons, the Department of State requests the committee to take favorable action on the Agreement as soon as possible.

Mr. Chairman, the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries [NAFO], was signed in Ottawa on October 24, 1978, by nine parties not including the

United States and subsequently entered into force on January 1, 1979.

The Convention creates a successor organization to the International Commission for the Northwest Atlantic Fisheries [ICNAF]. The United States withdrew from ICNAF effective December 31, 1976, because the Convention was inconsistent with the establishment of extended fishery management authority of the United States under the Magnuson Fishery Conservation and Management Act.

At the same time, however, it was recognized that the conservation and management of stocks within the United States 200-mile zone could benefit from continuation of the research that had been undertaken under the auspices of ICNAF.

In addition, it was acknowledged that international management of stocks outside the 200-mile zones of all the concerned parties was desirable. Consequently, the United Stats participated in the negotiation of the successor convention to ICNAF. The provisions of the later convention are consistent with provisions of United States law.

Under this convention, the United States will receive and provide scientific data, participate in the planning and coordination of research activities, and have available a multilateral scientific council to review scientific studies and hypotheses pertaining to fish stocks in the Convention area.

United States adherence to the convention will facilitate continuity of the data base established and accumulated over a period of more than three decades in the Convention area. The United States will also have an opportunity for membership in the Fisheries Commission, the body responsible for conservation and management of fisheries in the regulatory area, defined as the part of the Convention area beyond the 200-mile zones of the contracting parties.

In this connection, Mr. Chairman, an issue which has been raised in the past as a potential concern to some U.S. fishermen was the possibility that NAFO could manage swordfish stocks in the regulatory area. It is our position, Mr. Chairman, that NAFO, which covers a relatively small Northwest portion of the Atlantic Ocean, is clearly not the appropriate organization to regulate fisheries for swordfish.

It is our position that the proper organization to manage the highly migratory swordfish stocks is the International Commission for the Conservation of Atlantic tunas [ICCAT], which deals not only with tuna but also with "tuna-like" species, including swordfish. We intend to make this position clear to all NAFO members when, with the advice and consent of the Senate, we deposit our instrument of accession.

Again, Mr. Chairman, the Department believes that this Convention is in the interest of the United States and requests advice and consent to accession at an early date. Thank you. I would be glad to answer any questions.

[Mr. Kronmiller's prepared statement follows:]

Prepared Statement of Hon. Theodore G. Kronmiller

Mr. Chairman, I appreciate the opportunity to appear before the Committee to request advise and consent to ratification of the Eastern Pacific Ocean Tuna Fishing Agreement.

The Agreement was signed on March 15, 1983 by the United States, Costa Rica and Panama, and will enter into force when signed and ratified by five coastal states of the eastern Pacific region. Upon entry into force, the Council established by the Agreement will make available international licenses to fish tuna in the Agreement area. License fees will be disbursed among the coastal state parties to the Agreement in proportion to the catches of tuna in their respective 200-mile zones. Fees will also be used to pay for administration of the Agreement. Provision is made for conservation when all significant tuna fishing nations become parties. Conservation recommendations will be based on studies provided by the Inter-American Tropical Tuna Commission (IATTC), which will be replaced, along with the Agreement, when a comprehensive convention is eventually concluded.

Most nations along the coast of the eastern Pacific Ocean claim sovereign rights over tuna in their 200-mile zones. However, in accordance with the Magnuson Fishery Conservation and Management Act (MFCMA), and the Presidential Proclamation of March 10, 1983, establishing the United States exclusive economic zone, the United States does not claim or recognize coastal state sovereign rights or jurisdiction over migratory tuna beyond 12 miles from the coasts. The United States maintains that this resource can be managed effectively only by international agreement, not by the unilateral actions of coastal states.

From 1950 to 1978, the IATTC successfully managed the tuna fisheries of the region, notwithstanding the differing positions regarding the juridical status of the resource. However, the Latin American nations wished to replace the IATTC with a new convention. Consequently, the United States joined them in negotiations to resolve for the future the problem of fishing access to 200-mile zones, as well as to assure continued conservation and management. While a great deal of progress was made early in the negotiations, they became completely deadlocked in June 1980 over the portion of the regional catch to be allocated to the coastal states. Thereafter, Mexico, which had been among those countries most actively involved with the United States in efforts to achieve a new agreement, began to enforce its claimed jurisdiction over tuna, and refused to reenter serious negotiations. Informal discussions with Mexico revealed little interest there in any effort to achieve a viable agreement in the foreseeable future. Consequently, the United States pursued a negotiated accommodation with other nations of the region. It was these efforts that produced the tuna Agreement which is now before you.

Mr. Chairman, the Agreement does not compromise the formal juridical positions of the parties. It represents an equitable balance between the interests of coastal states and distant-water fishing nations. Thus, the Agreement can serve as a model for regional tuna licensing agreements in other areas of the world. For those nations parties to it, the new Agreement will end the cycle of seizures of U.S.-flag tunaboats and consequent imposition of retaliatory U.S. embargoes mandated by the MFCMA. Tuna fishing and marketing among the parties will enjoy new stability. Representatives of the United States tuna industry have been closely involved in the negotiation of this Agreement, and favor its ratification.

For these reasons, the Department of State requests the Committee to take favorable action on the Agreement as soon as possible.

Thank you Mr. Chairman. I would be pleased to answer any questions which you or members of the Committee might have.

State Department Analysis of the Eastern Pacific Ocean Tuna Fishing Agreement

Article I establishes an interim regime for the licensing of tuna vessels in the Eastern Pacific Ocean.

Article II (B) defines the area to be covered by the Agreement, which is the same as the conservation area (CYRA) of the Inter-American Tropical Tuna Commission (IATTC), with the exception of those areas within 200 miles of states not parties to the Agreement and those areas within 12 miles of the Contracting Parties. Article II (C) defines the tuna and tuna-like species which are subject to the licensing regime.

Article III (A) establishes the Council, which will implement the Agreement. Each Contracting Party which is a coastal state or a member of the IATTC shall have one representative on the Council and one vote. Council decisions are by unanimous agreement, with a minimum of five members present.

Article III (B) describes the responsibilities and operation of the Council, and the appointment of a Director.

Article III (C) and (D) deal with conservation of tuna resources. The members of the Council may, based on appropriate scientific data, counsult among themselves and with other states not Party to the Agreement but which fish tuna on a significant scale in the Eastern Pacific Ocean. Whenever the Contracting Parties include all such fishing states, the Council may make conservation recommendations. Such recommendations shall be consistent with the obligations of any Contracting Party pursuant to any relevant multilateral conservation agreement and shall be based on reports of the IATTC. In accordance with this provision of the Agreement, the United States would not agree to any conservation recommendations which were not consistent with the conservation program of the IATTC.

Article IV establishes a system of international licenses for fishing tuna in the Eastern Pacific Ocean, to be administered by the Council. In order to fish in the Agreement Area the tunaboats of the Contracting Parties shall be required to purchase a license in accordance with the Agreement. The Director of the Council or an appointed national authority will issue licenses to the flag vessels of the Contracting Parties. We believe that U.S. tunaboats will purchase licenses from the Director. We do not believe that any Government authority will be needed to help issue licenses pursuant to the Agreement.

Article VI deals with enforcement of the Agreement. It prohibits the Contracting Parties from embargoing tuna imports from other Contracting Parties which are conforming to the Agreement. Article VI also requires each Contracting Party to adopt, as necessary, provisions in its national law to ensure that its own flag vessels comply with the provisions of the Agreement.

Articles VII and VIII specify membership eligibility. Coastal States of the region and members of the IATTC may be members, and any other state may become Party to the Arrangement with the approval of the Council.

Article IX states that the Agreement will enter into force 30 days after the ratification or adherence of the fifth coastal state.

Article X appoints Costa Rica as depository government for the Agreement.

Article IX states that, aftering entering into force, the provisions of the Agreement will be suspended for such time as there are fewer than five Contracting Parties.

Article XII describes procedures for withdrawal from the Agreement.

Article XIII reserves the judicial positions of the Contracting Parties. In accordance with the Presidential Proclamation of March 10, 1983 and the Magnuson Fisheries Conservation and Management Act, the United does not recognize or claim sovereign rights on jurisdiction over highly migratory tuna beyond 12 nautical miles. Most Latin American nations do claim such rights over tuna.

Article XIV recognizes the interim nature of the Agreement and commits the Contracting Parties to continue their efforts to establish a new regional regime for the management and conservation of tuna in the eastern Pacific Ocean. This new regime shall include the allocation of the allowable tuna catch among the member countries according to a formula which will be established in future negotiations.

Article XV calls on the Contracting Parties to cooperate in their tuna fisheries relations pending the issuance of licenses pursuant to the Agreement.

Article XVI states that the Agreement is open for signature until the ratification or adherence by the fifth coastal state.

Paragraphs A–D of the Protocol deal with the procurement of international licenses under the Agreement. The fee for the vessels of all members will be $60 per net registered ton when the Agreement enters into force with five coastal states, will increase by an amount determined by the Council with the membership of the sixth coastal state, and will increase in increments of at least $10 to an overall maximum of $100 with the adherence or ratification of other coastal states. The fee shall be decreased in increments, to a minimum of $60 net registered ton, with the withdrawal of coastal states. Adjustments of the fees shall take into consideration, inter alia, the amount of tuna taken within 200 nautical miles of the coast of states joining or withdrawing from the agreement. Licenses will not be required of vessels of less than 200 net registered tons which fish exclusively within 200 nautical miles of their own coast.

Paragraph F of the Protocol directs the Council to disburse the collected fees, after a deduction of not more than ten percent to cover adminsitrative costs, to the coastal states in proportion to the amount of tuna within 200 nautical miles of their coast during the year in which the licenses are issued.

Paragraph G of the Protocol concerns the collection of statistical data by the Director and its transmission to the Council. Licensed vessels shall report catches by

size and location. Such reports will be confidential and the Director will transmit the data to the Council only in aggregate form for purpose of determining fee disbursements.

The CHAIRMAN. Thank you very much.

First, to what extent, if any, did the tuna industry participate in advising the State Department during the negotiation of this agreement and are you aware of any U.S. opposition to this agreement?

Mr. KRONMILLER. The tuna industry participated in virtually every negotiating session involved with this agreement. I am not aware of any opposition whatsoever in the United States to ratification of the agreement.

The CHAIRMAN. From the standpoint of cost, what will it cost the U.S. Government annually to participate in this agreement?

Mr. KRONMILLER. The Tuna Agreement will not have any direct cost to the United States Government. All administrative costs will be paid for out of fees paid for licenses by fishermen in the Agreement area.

The CHAIRMAN. In terms of the Agreement, it provides that the signatures of five nations must be obtained before it enters into force. Have any nations currently signed the Agreement? If so, how many and do you foresee any problem in obtaining the required number of five?

Mr. KRONMILLER. At this time, Mr. Chairman, in addition to the United States, Costa Rica and Panama are signatories. I do not anticipate any problem in obtaining the additional two signatories, and indeed I fully expect that there will be more than five parties to the agreement.

We have carried out consultations with a number of Latin American states with a view toward their participation and indeed we will continue those consultations next week and are hopeful for positive results.

The CHAIRMAN. Over the years, the United States has consistently maintained that highly migratory species such as tuna and whlaes should be regulated by international agreements, not by coastal nations. Has the recent U.S. exclusive economic zone declaration changed that policy?

Mr. KRONMILLER. Mr. Chairman, the language and intent and effect of the proclamation regarding this question are, in our view, quite clear. The proclamation does not, nor is it intended to, change existing U.S. law and policy concerning highly migratory species of tuna.

First, the proclamation asserts U.S. sovereign rights only to the extent permitted by international law, and it is the view of the United States that international law does not permit coastal state claims of jurisdiction over tuna beyond 12 miles, as I explained.

Second, the proclamation could not assert U.S. sovereign rights over tuna, since this would be contrary to U.S. law, the Magnuson Fishery Conservation and Management Act, which clearly provides that the United States does not exercise nor recognize coastal state rights over tuna beyond 12 miles.

Finally, the proclamation could not be interpreted as changing U.S. tuna law and policy since the Administration believes, as it has often stated, that it would not be in our national interest to effect such a change. Highly migratory species of tuna are not resi-

dent resources of the EEZ and, therefore, cannot be conserved and managed effectively except by international agreement.

Mr. Chairman, with your permission, I would like to submit a more detailed response to your question for the record.

The CHAIRMAN. That will be incorporated at this point in the record when received.

[The information referred to follows:]

EXCLUSIVE ECONOMIC ZONE OF THE UNITED STATES

THE QUESTION OF SOVEREIGN RIGHTS RELATIVE TO TUNA

Notwithstanding the legal legerdemain of on commentator on the President's Proclamation of an exclusive economic zone, the United States neither claims nor recognizes sovereign rights over highly migratory species of tuna. The language of the Proclamation and Presidential Statement are clear. The Proclamation states:

"Within the Exclusive Economic Zone the United States has *to the extent permitted by international law,* (a) sovereign rights . . ."

The President said in his accompanying statement:

"My Proclamation does not change existing United States policies concerning . . . fisheries, including highly migratory species of tuna *which are not subject to U.S. jurisdiction."*

Finally, the Ocean Policy Statement reaffirms "the United States neither recognizes nor asserts juridiction over highly migratory species."

The key language is "to the extent permitted by international law" and "not subject to U.S. jurisdiction." For over thiry years, since the first extended jurisdictional claims were made by States neighboring tuna resources, the United States has rejected the notion that a coastal State may establish sovereign rights over tuna beyond twelve nautical miles off the coast. United States law, policy, and practice have been consistant on tuna.

The rationale behind the United States approach is straight-forward. Tuna are not a resident resource of the EEZ. They are only found within any EEZ temporarily and may migrate far out into the ocean waters beyond. Therefore, the coastal State does not have the ability to manage and conserve tuna, nor does it have a paramount interest in their development. Although many coastal States claim jurisdiction over tuna within 200 nautical miles, none exercise conservation and management authority through purely domestic measures. Only through international agreements have States actually managed effectively the highly migratory tuna stocks. In fact, the United States has led other nations in developing a regime tuna management through international agreement such as the recent Eastern Pacific Ocean Tuna Fishing Agreement signed by Costa Rica, Panama, and the United States. Accordingly, customary international law precludes the coastal State from establishing sovereign rights over tuna. In the U.S. view, this is evidenced by Article 64 of the LOS Convention, which requires cooperation between coastal States and distant water fishing nations to manage tuna, both within and outside the EEZ, on a regional basis, through an international organization. It is the view of the United States that Article 64 precludes the coastal State from establishing sovereign rights over tuna.

The Proclamation does not change existing United States laws and policies pertaining to highly migratory species of tuna. As the President stated, the United States does not have jurisdiction over tuna. If the Proclamation had established sovereign rights over tuna, it would have established jurisdiction and control. Jurisdiction and control is the most important incident of sovereign rights over a resource. Furthermore, the Magnuson Act and the Fisherman's Protective Act provide that the United States does not exercise nor recognize exclusive management rights over tuna. The President may not by executive action amend the law, nor of course was it his intent to do so in this case. The Untied States Constitution must remain the paramount authority.

Nor does anything in the Proclamation or accompanying statement by the President suggest that the United States is now prepared to recognize other nations' claims to sovereign rights or other jurisdiction over tuna. The language ". . . the United States will recognize the rights of other States in the waters off their coasts, as reflected in the Convention so long as the rights and freedoms of the United States and others under international law are recognized by such coastal States . . ." must be read in relation to the United States view of the international law pertaining to tuna within the EEZ.

Therefore, the President's Proclamation of March 10, 1983, his accompanying statement and the U.S. ocean policy statement demonstrate that the United States does not assert sovereign rights over tuna, and does not recognize any claim to sovereign rights over tuna by any other nation.

The CHAIRMAN. What is the current status of U.S. tunaboat seizures off the coast of Latin America? How does the United States respond to such seizures, and what impact will this agreement have on this problem?

Mr. KRONMILLER. Mr. Chairman, in 1983 there has been one seizure of a U.S. tunaboat. There is some question concerning whether that tunaboat was within or outside 12 miles. So at this point it has not yet been determined how we are going to respond to that particular seizure.

I should add that in 1982 there were two seizures by Mexico, and that took place after an embargo had already been imposed on Mexico due to a number of seizures that had taken place earlier.

The U.S. response to a seizure which we deem to be illegal is that we embargo, at a minimum, the tuna exports from the offending country to the United States. That is mandatory under our fisheries law. There is also within the discretion of the executive branch the possibility of imposing a secondary embargo on other exports of fish products to the United States from the country that has carried out the illegal seizure.

It is our view that the new agreement will as between the parties remove the possibility of seizures which would trigger embargoes and that this will provide new stability in the region in this particular respect.

The CHAIRMAN. We will keep the record open for a reasonable time for Members to submit any questions that they might have on the Eastern Pacific Ocean Tuna Fishing Agreement.

I would like to turn now to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries. Actually, let us take into account this Convention does create an International Fisheries Commission for the Northwest Atlantic Fisheries, and yet the United States withdrew from a similar organization, the International Commission for the Northwest Atlantic Fisheries, in 1976.

Why is there a need for such a commission and how will the U.S. benefit from participation in this new organization?

Mr. KRONMILLER. We believe, Mr. Chairman, that the ability of the United States to effectively exchange scientific information concerning the status of the fish stocks of the area will be vastly improved by our participation in this convention.

In addition, should it become the case that the United States fishermen choose to operate outside the U.S. 200-mile zone within the Convention Area, the United States will have the ability to participate in the Fisheries Commission established by the Convention and to influence the decisions of the Commission in a manner that we feel to be appropriate.

The CHAIRMAN. Is there any cost to the U.S. taxpayer for our participation?

Mr. KRONMILLER. Yes, Mr. Chairman, there is. It is our estimate that the contribution by the United States annually will be approximately $67,000. This year, however, if we were to receive advice and consent and the Convention were to be ratified quickly,

the pro rata amount required would be approximately $22,000. Those funds have already been budgeted and obligated in anticipation of possible advice and consent and ratification this year.

The CHAIRMAN. Have you mentioned a comparison with what the previous cost was under the ICNAF convention?

Mr. KRONMILLER. The previous costs were about $35,000 annually. The new convention is more expensive, but the previous costs related to years prior to 1976, as you are aware, things have changed somewhat and expenses are greater for all fisheries commissions and, indeed, for most things.

The CHAIRMAN. What are the other larger nations' contributions also to this Convention?

Mr. KRONMILLER. The budget of the convention is established by a rather complex formula, Mr. Chairman, and I cannot give you precise numbers for the other nations at this time, although I would be pleased to submit that for the record. I could simply explain, if you like, the formula by which the budget is determined.

The CHAIRMAN. If you will then submit that for the record.

Mr. KRONMILLER. I would be happy to do that.

[The information referred to follows:]

DEPARTMENT OF STATE,
BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS,
Washington, D.C., June 20, 1983.

Mr. DAVID KEANEY,
Chief Clerk, Senate Foreign Relations Committee,
U.S. Senate, Washington, D.C.

DEAR DAVE: In response to questions raised by Chairman Percy at the hearing before the Senate Foreign Relations Committee on June 7, I am providing the following information regarding the budget of the Northwest Atlantic Fisheries Organization (NAFO).

Table 1 indicates the membership billing for January 1–December 31, 1983 which, of course, does not include the United States as a member. Table 2 is a calculation prepared by the Organization Secretariat indicating what the membership billing would have been for the same period had the United States been a member for the entire budget year. As I noted in my response to another question from the Committee on this subject, the United States would be expected to contribute for that remaining portion of 1983 after we become a member.

I trust this information will be helpful to the Committee in its consideration of this matter.

Sincerely,

THEODORE G. KRONMILLER,
Deputy Assistant Secretary
for Oceans and Fisheries Affairs.

Enclosures: As stated.

TABLE 1.

The following calculation of the contributions is prepared in accordance with Article XVI.3 of the Convention:

Billing January 1 to Decemnber 31, 1983

	Canadian dollars
Budget: Period 1 January to 31 December 1983	645,000.00
Deduct: Amount from accumulated surplus account [1]	169,564.78
Funds required to meet 1983 administrative budget	475,435.22

[1] Balance remaining in accumulated surplus account—$75,000 (See GC Doc. 82/IX/10 (revised), appendix III, report of STACFAD, sec. 12).

Contracting parties	Nominal catches for 1980	Percent of total catch in the convention area	Percent			Total	Deduct advance contributions	Amount billed
			10	30	60			
Bulgaria	1,097	0.08		$10,971 58	$228.21	$11,199.79		$11,199.79
Canada	971,876	74.21	$41,362.86	10,971.58	211,692.28	264,026.72		264,026.72
Cuba	9,156	0.70		10,971.58	1,996.83	12,968.41	$174.73	12,793.68
European Economic Community	145,389	11.10	6,180.66	10,971.58	31,663.99	48,816.23		48,816.23
Faroe Islands	11,591	0.89		10,971.58	2,538.82	13,510.40		13,510.40
German Democratic Republic	4,881	0.37		10,971.58	1,055.47	12,027.05		12,027.05
Iceland				10,971.58		10,971.58		10,971.58
Japan	30,648	2.34		10,971.58	6,675.11	17,646.69		17,646.69
Norway	5,063	0.39		10,971.58	1,112.52	12,084.10		12,084.10
Poland	4,494	0.34		10,971.58	969.89	11,941.47		11,941.47
Portugal	19,992	1.53		10,971.58	4,364.49	15,336.07		15,336.07
Romania	77	0.01		10,971.58	28.53	11,000.11		11,000.11
Union of Soviet Socialist Republics	105,311	8.04		10,971.58	22,934.99	33,906.57		33,906.57
Total	1,309,575	100.00	47,543.52	142,630.57	285,261.13	475,435.22	174.73	475,260.49
Add: Advance contriution—Cuba								174.73
Funds required to meet January 1 to December 31, 1983 administrative budget								475,435.22

J. C. E. Cardoso,
Executive Secretary.

TABLE 2

The following calculation of the contributions is prepared in accordance with Article XVI.3 of the Convention:

Billing January 1 to December 31, 1983

	Canadian dollars
Budget: Period January 1 to December 31, 1983	645,000.00
Deduct: Amount from accumulated surplus account [1]	169,564.78
Funds required to meet 1983 administrative budget	475,435.22

[1] Balance remaining in accumulated surplus account $75,000.00 (See GC Doc. 82/IX/10 (revised), appendix III, report of STACFAD, sec. 12).

Contracting parties	Nominal catches for 1980	Percent of total catch in the convention area	Percent			Total	Deduct advance contributions	Amount billed
			10	30	60			
Bulgaria	1,097	0.07		$10,187.90	$199.68	$10,387.58		$10,387.58
Canada	971,876	61.63	$33,280.46	10,187.90	175,806.43	219,274.79		219,274.79
Cuba	9,156	0.58		10,187.90	1,654.51	11,842.41	$174.73	11,667.68
European Economic Community	145,389	9.22	5,229.79	10,187.90	26,301.08	41,718.77		41,718.77
Faroe Islands	11,591	0.74		10,187.90	2,110.93	12,298.83		12,298.83
German Democratic Republic	4,881	0.31		10,187.90	884.31	11,072.21		11,072.21
Iceland				10,187.90		10,187.90		10,187.90
Japan	30,648	1.94		10,187.90	5,534.07	15,721.97		15,721.97
Norway	5,063	0.32		10,187.90	912.84	11,100.74		11,100.74
Poland	4,494	0.28		10,187.90	798.73	10,986.63		10,986.63
Portugal	19,992	1.27		10,187.90	3,622.82	13,810.72		13,810.72
Romania	77	0.01		10,187.90	28.53	10,216.43		10,216.43
Union of Soviet Socialist Republics	105,311	6.68		10,187.90	19,055.44	29,243.34		29,243.34
United States of America	267,295	16.95	9,033.27	10,187.90	48,351.76	67,572.93		67,572.93
Total	1,576,870	100.00	47,543.52	142,630.57	285,261.13	475,435.22	174.73	475,260.49

Contracting parties	Nominal catches for 1980	Percent of total catch in the convention area	Percent			Total	Deduct advance contributions	Amount billed
			10	30	60			
Add: Advance contribution—Cuba								174.73
Funds required to meet 1 January to 31 December 1983 administrative budget								475,435.22

J. C. E. Cardoso (Capt.),
Executive Secretary.

The CHAIRMAN. What are the views of the various U.S. regional fishery councils concerning this convention? Is there any opposition to the agreement?

Mr. KRONMILLER. Mr. Chairman, both the New England Fishery Management Council and the Mid-Atlantic Fishery Management Council have formally commented on NAFO. Both Councils indicated that they favor advice and consent and ratification.

That is not to say, however, that there were not some concerns expressed and that the views of the Councils were unanimous. They were not. However, let me say that it is our opinion that whatever concerns existed in the year when this issue arose, which was 1978 and 1979, as I recall, seem to have been alleviated.

At this time we are not aware of any opposition to advice and consent and ratification to the convention.

The CHAIRMAN. Could you describe briefly the powers of the various parts of each of the components of the organization, which include a general council, a scientific council, a fisheries commission and a secretariat?

Mr. KRONMILLER. Mr. Chairman, the general council, which is comprised of all parties to the convention, is responsible for the internal and external affairs of the organization itself.

The scientific commission is responsible for gathering, analyzing and disseminating scientific data concerning the status of the stocks.

The fisheries commission is responsible for establishing any regulatory measures—that is, any management or conservation measures—with respect to areas within the convention area but outside the 200-mile zone of the parties in that area.

The secretariat is responsible for carrying out the administrative functions of those three bodies.

The CHAIRMAN. Finally, does this convention conform to the purposes, policy and provisions of the Fisheries Conservation and Management Act and does it preeempt any other Federal or State laws?

Mr. KRONMILLER. We believe that this convention is entirely consonant with the Magnuson Fishery Conservation and Management Act and in no way preempts any Federal or State laws.

The CHAIRMAN. I was pleased to submit these resolutions on behalf of Senator Pell and Senator Dodd and see no objection to them. I would like to ask you whether there is any progress being made on any other outstanding items with regard to Mexico, with respect to fisheries and boundary treaties and agreements—any report that you can give the committee now—because we will have

the 23rd or 24th meeting with them later, actually in July, and we will certainly want an update by them.

Can give me an update now?

Mr. KRONMILLER. Yes, Mr. Chairman. Briefly, we are disappointed that we have been unable to resolve any significant fisheries issues with Mexico, though certainly we have tried. There have been a number of informal discussions with the Government of Mexico on the outstanding fisheries issues, and unfortunately we have been unable to find any common ground.

The discussions continue, but I cannot represent to you that we feel that there is any reason for optimism concerning any immediate resolution of those fisheries issues.

So far boundary issues are concerned, we have negotiated a boundary treaty with Mexico, and that has been before the Senate for some extended period of time. It is our understanding that there continues to be some opposition to advice and consent from outside interests, and we are awaiting further information in that regard.

The CHAIRMAN. Thank you very much.

Senator Helms, do you have any questions of Mr. Kronmiller?

Senator HELMS. I do not, Mr. Chairman.

The CHAIRMAN. If you would like to introduce your colleagues that are with you, we appreciate your work being done in this area. We enjoy having matters brought before us that have no opposition.

Mr. KRONMILLER. Thank you, Mr. Chairman. I appreciate that. I would like to say for the record that I have Mr. Snead with me today from Fisheries Office; Mr. Fred Wolfe, who is my special adviser; and Brian Hallman, who has been my righthand man on tuna issues.

Thank you.

The CHAIRMAN. Thank your very much indeed.

The hearing is adjourned. We will recess for just a few moments and then begin the business meeting.

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